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February 19, 1985

Michael J. Wahoske, Esq.
 Dorsey & Whitney
 2200 First Bank Place East
 Minneapolis, MN 55113

Re: City of St. Louis Park v. Reilly Tar
Our File No: 3857-011

Dear Mike:

In response to your request that the City of St. Louis Park more fully identify the basis of the privilege upon which the City has withheld various documents from production, the City submits the attached list.

Please note that we have located a majority of the documents which we were unable to locate as of February 13, 1985, the date on which the City's previous list was submitted to you. We will continue to search for the remaining documents and will keep you fully advised in this regard.

Lastly, all documents which the City has determined it will now produce are available for inspection and copying at our office or, if you prefer, we will forward copies of such documents to you.

Very truly yours,

Elizabeth A. Thompson / JS

Elizabeth A. Thompson

EAT:kjm:4421g

Enclosure

cc: Honorable Crane Winton, Special Master
 Honorable Paul A. Magnuson
 All Counsel of Record

90-7-1-21

RECEIVED

FEB 23 1985

CITY DOCUMENTS WITHHELD OR PRODUCED
PURSUANT TO THE LOCAL RULE 4(C)
CONFERENCE INITIATED BY REILLY TAR ON JANUARY 24, 1985

<u>DATE</u>	<u>DESCRIPTION</u>	<u>CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED</u>
00/00/00	Memo from GB to SK.	Cannot locate. After extensive investigation, the City is unable to locate this memorandum or state with certainty the identity of its author or recipient. The City believes that the initials SK may refer to Sharon Klumpp, Assistant City Manager and that the initials GB may be a typographical error and should instead refer to JB, James Brimeyer, City Manager. If this belief is accurate, because Mr. Brimeyer joined the City after 1980, then the referenced memorandum was made after the April 1, 1978 cut off date designated in paragraph 10 of the Case Management Order and should not have been included on the City's original list of documents.
00/00/00	Soil and Water Analysis.	Will produce.
00/00/00	Routing and transmittal slip from Mark Hult to Dick Koppy.	Cannot locate at this time.
00/00/00	Notes on Seventeen Compound (one page.)	Cannot locate at this time.
00/00/00	Chart of Seventeen Compound.	Cannot locate at this time.
00/00/00	Task Report to the Environmental Protection Agency by Ecology and Environment, Inc. for Reilly Tar site in St. Louis Park, Minnesota.	Will produce. The article contains underlining in part. At this time, the City cannot ascertain if the underlining was done by a City Attorney. In an effort to facilitate discovery, the City is now producing the report but reserves its right to protect from discovery any and all mental impressions or opinions or other work product or privileged communications concerning the report or the subject matter of the report.
00/00/00	Notes concerning report on 32nd and Oregon lift station. Author unknown.	Cannot locate at this time.
00/00/00	Document labeled Friday agenda.	Will not produce. In part, this document appears to contain privileged communications between the MPCA and its attorneys. The City will defer to the State's decision as to whether this portion of the document should be produced. A copy of this portion of the document has been sent to the State for review. As to the remainder of the document, there are references therein to correspondence with James Brimeyer as City Manager. Mr. Brimeyer did not join the City until 1980; therefore, although the document is undated, it is clear that the document was made after the April 1, 1978 cut-off date designated in paragraph 10 of the Case Management Order and as such, should not have been included on the City's original list of documents.
00/00/00	Plan for recovery of core and construction of relief well.	Cannot locate at this time.
00/00/00	Memo from Wikre to Moilanen.	Will not produce. This document appears to be a privileged communication between the MPCA and its attorneys, the City will defer to the State of Minnesota's decision as to whether the document should be produced. A copy of the document has been sent to the State Attorneys for their review.

<u>DATE</u>	<u>DESCRIPTION</u>	<u>CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED</u>
00/00/00	Handwritten notes on water quality presentation.	Will produce.
00/00/00	Document from the MPCA entitled "Water Quality Stipulation Agreement."	Will not produce. Document is draft of an agreement, upon which the City Attorney has made notes of his mental impressions and opinions in anticipation of the litigation.
00/00/00	Notes from an unknown author.	Will not produce. These notes indicate pumpage rates for various St. Louis Park wells for specific dates in July, 1982, and include statements made by James Brimeyer. Because of the date referenced on these notes and the fact that Mr. Brimeyer did not join the City until 1980, it is clear that these notes were made after the April 1, 1978 cut-off date designated in paragraph 10 of the Case Management Order and as such, should not have been included on the City's original list of documents.
00/00/00	Notes from an unknown author.	Will not produce. Upon further review, the City believes the author of these notes to be Dick Koppy. These notes were apparently made at a 3/06/78 meeting between various city and state personnel and state attorneys. As such, they appear to be privileged communications between the State and its attorneys. The City will defer to the State's decision as to whether the document should be produced. A copy of the document has been sent to the State's attorneys for their review.
00/00/00	Draft of St. Louis Park agreement for engineering services.	Will not produce. This is a draft agreement between the City and its consulting engineers, Orr-Schelen-Mayeron, which includes handwritten notes which indicate that the document was submitted to the City Attorneys for their review. As such, the document constitutes protected privileged communications.
00/00/00	Handwritten notes by an unknown author.	Will not produce. Upon further review, these notes which relate to the Hickok report and Superfund monies, appear to have been made by Dick Koppy during the last week of January, 1981, which is after the April 1, 1978 cut-off date designated in paragraph 10 of the Case Management Order. As such, these notes should not have been included by the City on its original list of documents withheld from production.
00/00/00	Handwritten notes by an unknown author.	Will produce.
00/00/00	Handwritten notes by an unknown author.	Will produce.
00/00/00	Handwritten notes by an unknown author.	Will produce.
00/00/00	Handwritten notes by an unknown author.	Will not produce. Upon further review, it appears that these notes, which relate to a meeting between City, State and EPA personnel and state attorneys, were made on March 26, 1978. Because it appears that these notes were made after the April 1, 1985 cut-off date designated in the Case Management

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		Order, they should not have been included in the City's original list of documents withheld from production. However, because these notes indicate that State attorneys were present at this meeting, the City will defer to the State's decision as to whether these notes should be produced. A copy of these notes has been sent to the State's attorneys for review.
00/00/00	Memo of understanding between the MnDot, MDH and St. Louis Park.	Will produce.
00/00/00	Letter from Charles H. Hutfin, Director of the Water Division of the U.S. EPA to Jones.	Cannot locate at this time.
00/00/00	Several pages of handwritten notes by an unknown author.	Produce ("Republic Creosote Title Notes").
00/00/00	Memo from Michael B. Cook, Deputy Assistant Administrator for Hazardous Emergency Response to the Regional Administrators Regions 1-10.	Cannot locate at this time.
00/00/00	Document entitled "Program Guidance--Remedial Investigations, Feasibility Studies and Design at Selected Hazardous Waste Disposal Sites."	Cannot locate at this time.
00/00/00	Document entitled "Revisions in the Carbon Absorbtion--RFP."	Will produce. At this time, the City cannot ascertain if the handwritten notes appearing on this document were made by a City Attorney. In an effort to facilitate discovery, the City is now producing the document but reserves its right to protect from production any and all mental impressions or opinions or other work product or privileged communications concerning the document or the subject matter of the document.
00/00/00	Handwritten outline of the carbon absorbtion project.	Will produce.
00/00/00	Water studies outline.	Will produce.
00/00/00	Questionnaire.	Will produce.
00/00/00	Interoffice memo from Harvey McPhee to file.	Will not produce. The City Attorney was a carbon copy recipient of this document. In the memorandum, Mr. McPhee, a city official, requests the legal advice of the City Attorney as to possible legal action against Reilly Tar in October, 1970.
00/00/00	Municipal Research worksheet and 2 pages notes.	Will not produce. The "worksheet" is a form used by lawyers and law clerks in the City Attorney's office when conducting legal research. This particular worksheet and the attached attorney note concern a particular legal research project pertaining to the 1970's litigation. As such, it constitutes protected work product.
00/00/00	Draft agreement, "Demolition, Removal and Clean-up Work"	Will produce.

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00/00/00	Old draft, Offer to Purchase.	Will not produce. This draft is not one submitted to Reilly Tar or its attorneys. Rather, this draft is one prepared by the City Attorney's office and contains the mental impressions of the City Attorney at a time when litigation was pending. As such, this draft is protected from discovery.
00/00/00	Memorandum from Richard Brooks to City Manager regarding RT & C Offer to Purchase.	Will not produce. This document is a memorandum from a city employee to the City Manager concerning drafting of the purchase agreement. The City Attorney has made notes on the memorandum concerning his mental impressions and opinions of the draft in light of pending litigation. As such, the document constitutes protected work product.
00/00/00	Table of Contents regarding Report, Contamination, Storm Sewer.	Cannot locate at this time.
00/00/00	NPDES Application for Permit to Discharge, General Instructions, standard Forms.	Will produce.
00/00/00	Newspaper article, "PCA official says St. Louis Park housing site is not polluted."	Will produce.
00/00/00	Article, Minneapolis <u>Tribune</u> , "Water-taint Talk Tars Suburban Housing."	Will produce. The copy of the article being produced is dated May 18, 1977 and is underlined in part. At this time, the City cannot ascertain if the underlining was done by a City Attorney. In an effort to facilitate discovery, the City is now producing the article but reserves its right to protect from production any and all mental impressions or opinions or other work product or privileged communications (letter) concerning the article or the subject matter of the article.
00/00/00	Sheet labeled "Well Closure"	Will not produce. The document simply is a cover page to the City Attorney's handwritten notes dated 11/29/78.
00/00/00	Draft letter to Gardebring and Lawson from Mayor Stern.	Will produce. The document contains handwritten notes and markings. At this time the City cannot ascertain if the underlining was done by a City Attorney. In an effort to facilitate discovery, the City is now producing the article but reserves its right to protect from production any and all mental impressions or opinions or other work product or privileged communications concerning the article or the subject matter of the article.
00/00/00	Disc. Draft #2, Memo of Understanding	Will not produce. The draft contains handwritten notes and comments of the City Attorney concerning anticipated or pending litigation. Thus, the document constitutes work product.
00/00/00	Draft Memo of Understanding with hand changes	Will not produce. The draft contains handwritten notes of the City Attorney concerning anticipated or pending litigation. Thus, the document constitutes work product.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
00/00/00	Wikre memo to Moilanen & Stensvaag re comments on 2/22/78 memorandum	Will not produce. This document appears to be a privileged communication between the MPCA and its attorneys. The City will defer to the State of Minnesota's decision as to whether the document should be produced. A copy of the document has been sent to the State Attorneys for their review.
00/00/00	Draft Resolution relating to construction of La. Avenue.	Will produce.
00/00/00	La. Avenue pollutant excavation schedule	Will produce.
00/00/00	Chart of borings - locations and results	Will produce.
00/00/00	Howard-Reynolds lit. "What Lies Ahead for R. C. Land?"	Will produce.
00/00/00	Package headed, "sanitary sewer drainage"	Cannot locate at this time.
00/00/00	Package headed, "storm sewer"	Cannot locate at this time.
00/00/00	Memo from St. Louis Park Health Department to owners and operators of gasoline pumps	Will produce.
00/00/00	Map of Reilly property labeled "Exhibit A".	Will produce.
00/00/00	Well Water Quality, author unknown - 5 pages	Will produce. The City believes these notes to have been made by Dick Koppy.
00/00/00	Interoffice memo from Harvey McPhee to file	Will not produce. The City Attorney was a carbon copy recipient of this document. In the memorandum, Mr. McPhee, a city official, requests the legal advice of the City Attorney as to possible legal action against Reilly Tar in October, 1970.
06/11/00	Calendar page	Will produce. The City agrees to produce this document given its understanding of Judge Magnuson's Order dated December 17, 1984, that attorneys' knowledge of dates and events is not work product, but that attorneys' impressions or opinions of such events are protected. Thus, the City reserves its rights to protect from discovery the City Attorney's mental impressions or other work product or privileged communications concerning the events identified on the calendar.
06/12/00	Calendar page	See above.
06/13/00	Calendar page	See above.
06/14/00	Calendar page	See above.
06/15/00	Calendar page	See above.
06/16/00	Calendar page	See above.
06/18/00	Calendar page	See above.
06/19/00	Calendar page	See above.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
06/20/00	Handwritten notes on Pollution Abatement--Subcommittee meeting.	Cannot locate at this time.
04/04/33	Interoffice correspondence between AELarkin and PCReilly.	Previously produced as document No. 302977-302979. The City claims no privilege or work product protection in regard to this document.
04/07/33	Letter from PCReilly of Republic Creosote and Company to Mr. AELarkin of St. Louis Park.	Previously produced. See Minnesota Deposition Exhibit 127.
04/08/33	Memorandum from AELarkin to Mr. Reilly.	Previously produced as document number 302957. The City claims no privilege or work product protection in regard to this document.
03/19/34	Letter from CBEwards to MJMcLellan of St. Louis Park.	Previously produced as document number 302982. The City claims no privilege or work product protection in regard to this document.
03/26/34	Memo from WJMcLellan to CBEwards.	Previously produced as document number 302983.
00/00/62	Public Health Service Drinking Water Standards, pub. by U.S. Department of HEW	Cannot locate at this time.
06/22/64	Text of WPC 2	Cannot locate at this time.
07/02/65	MDH offices memorandum re "complaint of oil pollution in Minnehaha Creek"	Cannot locate at this time.
05/00/69	Petition for review (of real prop. taxes)	Will produce.
11/17/69	Newsletter of Minnesola Society of Professional Sanitarians	Will produce.
02/05/70	McPhee trans. memo to City Manager	Cannot locate at this time.
02/06/70	Interoffice memo from Ray Folland to Chris Cherches.	Previously produced as Documents No. 50006423-50006437.
02/13/70	Memo from Folland to Gene Hickock.	Cannot locate at this time.
03/02/70	(2 copies) memorandum to Manager's file regarding "Meeting with Herb Finch - Republic Creosote Co."	Will produce.
04/06/70	Wayne G. Popham Handwritten notes re: Republic Creosote.	Will produce. Originally, the notes were thought to have been generated by Wayne Popham. Upon further review, the author cannot be identified.
04/10/70	Agenda regarding Pollution Meeting with PCA and St. Louis Park Staff.	Will produce. The document produced is a typewritten agenda. The City is unable to ascertain at this time whether the agenda was prepared by the City Attorney. To facilitate discovery, the City is now producing the agenda but reserves its right to protect from production any mental impressions or opinions or other work product or privileged communications of the City Attorney concerning the items listed on the agenda.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
04/23/70	Embrom of PCA Office Memorandum regarding meeting with St. Louis Park regarding Republic Creosote	Will not produce. The memorandum memorializes discussions between the City and the State and their counsel concerning possible legal action against Republic Creosote. The document memorializes privileged communications which concern issues of common interest of the State and the City, which communications were made in furtherance of representing those interests in the prosecution of the 1970 lawsuit.
07/06/70	Letter for D. E. Oakleaf, C & NW Railway, to Zikan, Accounting Director of Public Works.	Will produce.
07/23/70	Interoffice memo from the Health Department to the City Manager.	Will produce. The City reserves its right to protect from discovery any mental impressions or other work product or privileged communication of the City Attorney with respect to the subject matter of the memo.
08/24/70	Wayne G. Popham notes, 4 pages, "Conference with PCA, Lindahl, Wikre"	Will not produce. The notes memorialize privileged communications between the State and City and their counsel in regard to legal strategies involved in the 1970 litigation. The notes, as a whole, also are protected work product in that they reflect the opinions or mental impressions of the City attorney as to legal strategies.
11/16/70	Agenda Worksheet (2 pages)	Will produce. While the document seemingly does not concern issues of the subject of litigation, in an effort to facilitate discovery, the City will produce the document.
02/18/71	- to 2/23/71 Susan Workman's notes.	Will produce.
02/18/71	Handwritten notes by an unknown author.	Cannot locate at this time.
02/19/71	Handwritten notes by an unknown author.	Cannot locate at this time.
02/23/71	Interoffice memo from the City Attorney--Gary Macomber to the Health Department.	Will not produce. The memorandum memorializes discussions between the City and the State concerning possible legal action against Republic Creosote. The document memorializes privileged communications which concern issues of common interest of the State and the City, which communications were made in furtherance of representing those interests in the prosecution of the 1970 lawsuit.
02/25/71	Workman notes.	Will produce. These notes indicate that ambient air samples which were taken near the Reilly site were turned over to a City Attorney. To facilitate discovery, the City is producing this document, however the City reserves its right to withhold from discovery any mental impressions, opinions or privileged communications of the City Attorney concerning the City's position with respect to the sampling or the issues referred to in the document.
02/25/71	Handwritten notes by an unknown author.	Cannot locate at this time.

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02/26/71	Departmental correspondence from Harvey McPhee to the City Manager.	Will produce. This memorandum details work done on odor samples at the Reilly site at the direction of the City Attorney. To facilitate discovery, the City is producing this document, however, the City reserves its right to withhold from discovery any communications of the City Attorney concerning the City's position with respect to the sampling or the issues referred to in the document.
03/25/71	Locky memo to Cherches re "City-owned land near Republic Creosote."	Will not produce. The City Attorney was a carbon copy recipient of this memo, in which City officials analyzed potential damages in the 1970 litigation. The memo is both privileged and work product.
04/23/71	Log of borings from the Republic Creosote area in St. Louis Park.	Cannot locate at this time.
04/28/71	Letter from J.S. Braun of Soil Engineering Services, Inc. to McPhee.	Previously produced. See Reilly Tar deposition Exhibit 214.
05/10/71	Agenda worksheet regarding selection of land appraisal firm.	Will produce.
05/12/71	Locky memo to Cherches re "estimated damages to City property" and attached map.	Will produce.
09/21/71	Office memo from Robert Lindall to Grant Merritt, Edward M. Wiik, and C. A. Johannes.	Previously produced as document number 3000133 (RT Exhibit 20). The City defers to the State's decision whether this document is privileged or work product.
11/01/71	Page 14 of Republic Creosote document.	Cannot locate at this time.
11/08/71	Memo from Harvey McPhee to Jim Miceli, Jim Jones, Robert Locky, Richard Brooks, Wayne Popham and Earl Hanson.	Will not produce. The memo is a response to the City Attorney's request for damage analysis made when the 1970 litigation was pending. It is both privileged, as confidential communications between the City and its counsel, and work product, as materials prepared in anticipation of trial.
03/09/72	McPhee memorandum to City Manager regarding RT & C.	Will not produce. City Attorney was a carbon copy recipient of this memorandum. The document memorializes privileged communications between City officials and the City Attorney regarding provisions of the purchase agreement.
03/13/72	McPhee memorandum to City Manager regarding RT & C.	Will not produce. The City Attorney was a carbon copy recipient of this memorandum. The memorandum memorializes privileged communications between City officials and the City Attorney as to legal action to be taken in regard to the Reilly Tar site.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
03/23/72	Brooks memorandum to Cherches regarding RT & C Demolition Proposal.	Will produce. The document is an interoffice memorandum of City officials concerning proposed terms of the purchase agreement. There are handwritten notes on the memorandum. At this time, the City cannot ascertain whether the handwritten notes were made by the City Attorney or some other party. In an effort to facilitate discovery, the City will produce the document but reserves its right to protect from production any mental impressions or opinions or other work product or privileged communications of the City Attorney concerning the memorandum or the subject matter of the memorandum.
04/17/72	Resolution 4480 - approving U.R.P. & feasibility of relocation for NDP.	Will produce.
06/15/72	Heltzer letter to resident (3rd ward councilman)	Will produce.
09/21/72	Planning Department sheet for economic feasibility.	Will produce.
10/06/72	Office memo from R. Lindall to Grant Merritt.	Will not produce. This document appears to be a privileged communication between the MPCA and its attorneys. The City will defer to the State's decision as to whether this document should be produced. A copy of this document has been sent to the State Attorneys for their review.
10/31/72	Rolfe A. Worden letter to Hanson enclosing executed copy, Reilly Tar Contract for Deed.	Will produce. This letter is simply the means by which the final copy of the Reilly contract for deed was transmitted to the City. In an effort to facilitate discovery, the City is producing this document, however, the City reserves any and all rights to protect from discovery any mental impressions or opinions or privileged communications of the City Attorney concerning the terms or relevance of the contract for deed.
11/10/72	Thibault memo to Wayne G. Popham regarding appraisal to creosote site.	Will produce. The memorandum discloses that a meeting was to occur concerning appraisals to be made at the Republic Creosote property. To facilitate discovery, the City is producing this document, however, the City reserves its right to protect from discovery any mental impressions, opinions or privileged communications of the City Attorney regarding the meeting or the appraisals.
11/20/72	Resolution 4684 - approving U.R.P. & feasibility of relocation for NDP.	Will produce.
12/14/72	Resolution No. 4698.	Will produce. The City is unable to ascertain whether the document is a draft or final version of Resolution No. 4698. In an effort to facilitate discovery, the City is producing this document, but reserves its right to withhold from discovery any mental impressions, opinions or privileged communications of the City Attorney concerning drafts of the resolution or the intended purpose or the effect of the resolution.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
06/15/73	Letter from Jack Van de North of the MPCA to Rolfe Worden.	Previously produced as document number 50005278.
10/00/73	Conveyance between HRA & City grants easement for road purposes described in Exhibit A.	Will produce.
10/16/73	Interoffice memo from Harvey McPhee to Chris Cherches, Bill Thibault, Dave Rudberg, Wayne Popham and Orr-Schelen-Mayeron personnel.	Will produce. The document states that a meeting will occur and suggests that a discussion be held prior to the meeting concerning the City's position on certain issues. To facilitate discovery, the City is producing this document, however, the City reserves its right to withhold from discovery any mental impressions, opinions or privileged communication of the City Attorney concerning the City's position with respect to the meeting or the issues referred to in the memorandum.
10/19/73	Rolfe A. Worden memo to Myrna Hardy enclosing 2 Abstracts of Title and 1 Registered Property Abstract.	Will produce.
01/14/74	Letter from Eldon Kaul to Rolfe Worden.	Previously produced as document numbers 4000670 and 50020154.
01/29/74	Office memo from Eldon G. Kaul to John Olin, Lovell Richie and George Koonce.	Previously produced as document number 50005278.
01/31/74	Handwritten notes.	Previously produced as document numbers 9510326 to 9510327.
02/15/74	Koonce letter to McPhee regarding reviewal of Storm Water Study report, contains attorney notes.	Will produce. The letter produced has been underlined. The City has been unable to ascertain whether the underlining was done by a City Attorney. To facilitate discovery, the City is producing the letter, however, the City reserves its right to protect from discovery, the mental impressions, opinions, or privileged communications of the City Attorney regarding the letter or the subject matter of the letter.
04/10/74	HRA meeting minutes - item 5 discusses mutual concerns, HRA & HUD, in acquisition of NDP properties.	Will produce. The minutes produced contain underlining. The City cannot ascertain whether the underlining was done by the City Attorney. To facilitate discovery, the City is producing this document, however, the City reserves its right to protect from discovery, the mental impressions, opinions or privileged communications of the City Attorney concerning the meeting, the minutes or the subject matter of the minutes.
06/22/74	Text of Water Pollution Control Commission (WPC) 2	Will produce. The document produced contains underlinings and markings; the City cannot ascertain whether the underlinings and markings were made by the City Attorney. The City reserves its right to protect from discovery, the mental impressions, opinions or privileged communications of the City Attorney in regard to the subject matter of the document.
07/22/74	Memorandum from Dave Rudberg to Chris Cherches, Wayne Popham, Harvey McPhee, Maynard Kays, Bill Thibault.	Will not produce. The memo contains confidential communications between the City and its counsel concerning legal strategy with respect to construction of the storm sewer.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
07/22/74	Rudberg memo to City Attorney and officials.	Will not produce. The memorandum contains confidential communications of city officials to the City Attorney, which communications were made in an effort to solicit legal advice from the City Attorney in regard to legal action concerning pollution on the Republic Creosote site.
07/23/74	List of PCA board members and addresses.	Will produce.
08/29/74	Barbe letter to Cherches clarifies PCA staff position on permits, contains attorney notes.	Will produce. The letter contains underlining and markings. The City cannot ascertain whether the underlinings and markings were made by the City Attorney. To facilitate discovery, the City is producing the document but reserves its right to protect from discovery any and all mental impressions, opinions or privileged communications of the City Attorney in regard to the subject matter of the document.
10/30/74	Memorandum from City Manager to City Attorney regarding RT & C chronology.	Will produce. The City, however, reserves its right to protect from discovery any work product or privileged communications concerning the chronology referenced in the document produced.
11/18/74	Notes from an unknown author.	Will produce.
11/18/74	Memorandum on groundwater contamination of St. Louis Park, Minnesota by the MPCA Division of Water Quality.	Will not produce. The document contains handwritten notes and markings of the City Attorney, which notes and markings memorialize the mental impressions, opinions and theories of the City Attorney concerning facts and strategies crucial to anticipated litigation.
11/18/74	Draft of MPCA memorandum on Ground-Water Contamination with attorney notes.	Will not produce. The document contains handwritten notes and markings of the City Attorney, which notes and markings memorialize the mental impressions, opinions and theories of the City Attorney concerning facts and strategies crucial to anticipated litigation.
11/19/74	Coleman statement regarding development of RT & C site, contains attorney notes.	Will produce. Various parts of the document are underlined; The City cannot ascertain whether the underlining was done by the City Attorney. To facilitate discovery, the City is producing the document, however, the City reserves the right to protect from discovery any mental impressions, opinions, theories or privileged communications of the City Attorney concerning the subject matter of the statements.
11/27/74	Memorandum from Wayne G. Popham to Eldon Kaul.	Will produce.
12/17/74	Enclosure from previous memorandum (Letter to Rudberg from Sunde)	Will produce.
12/19/74	Letter from Wayne Popham to Eldon Kaul of the MPCA.	Will produce.
12/23/74	Letter from Gerald M. Sunde to Dave Rudberg of the City of St. Louis Park.	Will produce. This letter is an attachment to the 1/7/75 memorandum from Dave Rudberg to Chris Cherches noted below.

<u>DATE</u>	<u>DESCRIPTION</u>	<u>CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED</u>
12/26/74	Letter from Grant J. Merrit, executive director of the Minnesota Pollution Control Agency to Wayne Popham.	Previously produced. See Reilly Tar Exhibit 101.
01/02/75	Wayne G. Popham note regarding PCA-Council Meeting 12/31/74.	Will not produce. The document memorializes the legal strategies of the City Attorney with respect to the Water Quality Stipulation agreements.
01/06/75	Groundwater pollution, Republic Creosote site outline.	Will produce.
01/07/75	Memo from Dave Rudberg to Chris Cherches.	Will produce.
01/07/75	Attorney Donohue letter to WGP encloses 2 water quality stipulation agreements (for other projects), agreements attached.	Will produce.
01/22/75	Notes concerning an unknown subject by an unknown author.	Will not produce. These are notes made by a City Official of his discussion with the City Attorney; the notes memorialize confidential communications regarding legal strategies.
03/10/75	Letter from C.A. Johannes, hearing officer at the MPCA to Popham.	Previously produced as document number 5002069-5002083.
03/13/75	Ground water study, Republic Creosote area, St. Louis Park.	Will produce.
03/15/75	Memorandum from Rolfe A. Worden to the city council and the city manager.	Will not produce. The memorandum contains confidential communications between the City Attorney and its client, the City, concerning legal opinions and legal advice of the City Attorney regarding the City's liability under a contract with Lametti & Sons.
03/25/75	Memorandum from Bill Thibault to Chris Cherches.	Will not produce. The City Attorney is a carbon copy recipient of this memo. The memo contains confidential communications between the City and its counsel in which the City requests legal advice concerning storm sewer monitoring.
05/20/75	Letter from Wayne R. Long of Orr, Schelen, Mayeron & Associates to Mr. Pat Mader.	Will produce.
08/20/75	Memo from Cherches to Rudberg.	Will not produce. The City Attorney is a carbon copy recipient of this memo. In the memo, Mr. Cherches seeks the legal advice of the City Attorney with respect to right-of-way acquisitions.
09/11/75	Letter from Mr. Rolfe A. Worden to Mr. R. H. McDonald of the Chicago Northwestern Transportation Company.	Will produce.
09/15/75	Memo from J. Heffron to E. Kaul.	Will not produce. This document appears to be a privileged communication between the State and its attorneys. A copy has been sent to the State Attorneys for their review as to privileged work product.
10/27/75	Memorandum from Allan Gebhard of Barr Engineering Company to Dale Wikre of the MPCA staff.	Will produce.

<u>DATE</u>	<u>DESCRIPTION</u>	<u>CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED</u>
10/30/75	Handwritten notes labeled "PCA".	Will produce.
12/01/75	Memorandum from Allan Gebhard of Barr Engineering to Dale Wikre of the MPCA.	Will produce.
12/17/75	Draft of an agreement for Testing and Analysis Services for storm water monitoring between the City of St. Louis Park and Serco Laboratories.	Will not produce. This draft agreement contains handwritten notes of the City Attorney in anticipation of litigation and thus constitutes protected work product.
12/30/75	Letter from Michael Gallagher of the Attorney General's office to Keith M. Brownell of St. Louis County.	Cannot locate at this time.
05/21/76	Letter from Wayne R. Long of Orr-Schelen-Mayeron & Associates to Rudberg.	Cannot locate at this time.
06/10/76	Memo from Rudberg to Cherches.	Will produce. The City reserves its right to protect from discovery any mental impressions or other work product or privileged communications with respect to the subject matter of the memo.
06/11/76	Notes concerning unknown subject matter.	Will produce.
07/01/76	Letter from Cherches to Donald M. Dietz.	Will produce.
07/26/76	Memo from J.A. Johnson of OSM Consulting Engineers.	Will produce.
01/04/77	Draft of an amendment to water quality stipulation agreement.	Previously produced as Document No. 50021062-21080.
03/30/77	Laura E. Lund memorandum to Wayne G. Popham regarding Tapes at WCCO on Open-Mike Controversy; and Wayne G. Popham hand notes of 3/30 with further comment.	Will not produce. The memorandum was written by an employee of the City Attorney. The City Attorney made notes of his communication with City officials, which communications concerned legal advice sought from and given by the City Attorney.
05/23/77	Letter to Mayor Stern from Marion Watson regarding St. Louis Park ground water pollution problem. (Should have been produced - inadvertently withheld - may have been produced as part of another file.)	Will produce.
07/13/77	Copy of earlier memorandum from Rolfe A. Worden to the city manager and the city council.	Cannot locate at this time.
07/14/77	Interoffice memorandum from D. William Kaufman to Robert Locky.	Will not produce. This document is a legal memorandum prepared by the City Attorney (Kaufman) with respect to legal strategies concerning a right-of-way easement in favor of the City.
08/26/77	Rudberg memorandum to Wayne G. Popham, Thibault and Sather regarding meeting about Phase II Barr Study.	Will not produce. The memorandum was directed to the City Attorney and contains confidential communications by which the officials solicited legal advice from the City Attorney.

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09/19/77	State Register, pages 521-547 deal with PCA "identification, collection, transportation and disposal of hazardous waste"	Will produce. The document contains underlinings and markings. The City Attorney cannot ascertain whether the markings were made by the City Attorney; however, to facilitate discovery, the City will produce the document but reserves its rights to protect from discovery the mental impressions, opinions, theories or privileged communications of the City Attorney with respect to the subject matter of the document.
12/02/77	Gray, Minnesota Department of Health (MDH), letter to Koppy lists 8 health-related concerns regarding La. Avenue Extension	Will produce. The document contains underlinings and markings. The City cannot ascertain whether the underlinings and markings were made by the City Attorney. To facilitate discovery, the City will produce the document but reserves its right to protect from discovery any mental impressions, opinions or privileged communications of the City Attorney with respect to the subject matter of the letter.
12/30/77	Handwritten notes by unknown author.	Cannot locate at this time.
00/00/78	Special report - "Chemical Contaminants, Including Trichloroethylene, Force Gray, Maine Officials to Close Firm, Tread Water"	Cannot locate at this time.
01/00/78	Working paper response to MPCA/MDH.	Previously produced as Document No. 50021072.
01/00/78	Economic Analysis - Feasibility of Constructing La. Avenue	Will produce.
01/13/78	Draft of Hazardous Waste Regulations., Pages 2 & 3 (2 copies)	Cannot locate at this time.
01/14/78	Clipping "suburb stops using four wells"	Previously produced as Document Number 400257. Note that the correct date of the referenced article should be 11/14/78. The City claims no privilege or work product.
01/20/78	Memo from Alan Mitchell to interested persons re "changes to hazardous waste regulations," "attached latest draft of suggested changes.	Will produce.
02/10/78	Letter from Warren Lossen, M.D., Commissioner of Health at the Minnesota Department of Health to Mayor Irving Stern of St. Louis Park.	Cannot locate at this time.
02/09/78	Gardner letter to Koppy regarding La. Avenue Cost Analysis.	Will produce.
02/15/78	Legal analysis of Louisiana Avenue construction by PCA and City Attorneys. (#10)	Will not produce. The document is a draft of a final analysis of legal strategies developed in anticipation of litigation; as such, it constitutes work product. The document is further protected from production because it memorializes privileged communications between State and City attorneys and their clients at a time when the State and City were pursuing their common interests.

DATE	DESCRIPTION	CITY WILL PRODUCE OR WILL WITHHOLD FROM PRODUCTION FOR REASON STATED
02/15/78	Memo from Schultz, Miller, Moilanen, Stensvaag, Hinderaker and Popham to interested federal, state and city personnel.	Will not produce. This document is a draft of a final analysis of legal strategies developed in anticipation of litigation; as such, it constitutes work product. The document is further protected from production because it memorializes privileged communications between State and City attorneys and their clients at a time when the State and City were pursuing their common interests.
02/15/78	Memorandum from Schultz, et al. to "Interested Federal, State and City personnel," regarding "Attorney's Analysis Regarding LA Avenue Issues"	Will not produce. The document is a draft of a final analysis of legal strategies developed in anticipation of litigation; as such, it constitutes work product. The document is further protected from production because it memorializes privileged communications between State and City attorneys and their clients at a time when the State and City were pursuing their common interests.
02/17/78	Petrafeso letter to Wayne G. Popham regarding involvement of Water resources Board in RT & C problem.	Will produce.
02/22/78	Memo from Shultz, et al to interested federal, state and city personnel, attorney's analysis regarding La. Avenue issues.	Will not produce. The document is a draft of a final analysis of legal strategies developed in anticipation of litigation; as such, it constitutes work product. The document is further protected from production because it memorializes privileged communications between State and City attorneys and their clients at a time when the State and City were pursuing their common interests.
02/23/78	Memo from Koppy to Hinderaker.	Cannot locate at this time.
02/27/78	Legal analysis of Louisiana Avenue construction by PCA and City Attorneys.	Will not produce. This document appears to be a privileged document between the MDH and its attorneys. The City will defer to the State of Minnesota's decision as to whether the document should be produced. A copy of the document has been sent to the State Attorney for their review.
02/27/78	Memo from Richard L. Wade, the Director of Division of Environmental Health of the State of Minnesota to Mr. William Miller of the legal section.	Will produce.
03/13/78	Status report on La. Avenue, from City Manager to City Council, 7 pages.	Will not produce. In this memorandum, the City Manager reports to the City Council the advice of the City Attorneys with respect to road construction over contaminated areas of the Reilly Tar site.
03/17/78	Gardner, Bather, Ringrose, Wolsfeld memorandum to Koppy regarding La. Avenue.	Will produce.